

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

**Miller,**

Plaintiff,

**v.**

**Catlett, et al.,**

Defendants.

CASE NO. 08cv2428 AJB (PCL)

**ORDER SETTING BRIEFING  
SCHEDULE FOR DEFENDANTS'  
MOTION FOR SUMMARY  
JUDGMENT**

On May 25, 2011, Defendants filed a Motion for Summary Judgment. (Doc. 85.) The motion hearing date is scheduled for July 13, 2011. Plaintiff shall file an opposition to Defendants' motion no later than July 5, 2011. Defendants shall file a reply to Plaintiff's opposition no later than July 11, 2011.

The Court also provides Plaintiff with Notice (described below) regarding the possible effects a Motion for Summary Judgment may have on Plaintiff's case.

**This notice is required to be given to Plaintiff pursuant to Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998) (en banc) and Klinge v. Eikenberry, 849 F.2d 409 (9th Cir. 1988):**

A Motion for Summary Judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a Motion for Summary Judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact - - that is,

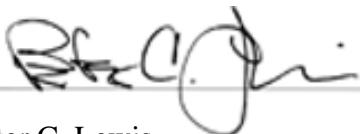
1 if there is no real dispute about any fact that would affect the result of your case, and the party who  
2 asked for summary judgment is entitled to judgment as a matter of law, which will end the case. When  
3 a party you are suing makes a motion for summary judgment that is properly supported by declarations  
4 (or other sworn testimony), you cannot simply rely on what the complaint says. Instead, you must set  
5 out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as  
6 provided by Rule 56(e), that contradict the facts shown in the defendants' declarations and documents  
7 and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence  
8 in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is  
9 granted, your case will be dismissed and there will be no trial.

10 **Conclusion and Order**

11 The Court hereby calendars the Motion for hearing on **July 13, 2011**. Plaintiff's opposition must  
12 be filed and served on all parties by **July 5, 2011**. If Plaintiff does not wish to oppose Defendants'  
13 Motion, Plaintiff should file and serve a "Notice of Non-Opposition" by that same date to let the Court  
14 know that Defendants' Motion is unopposed. If Plaintiff does file and serve an Opposition, Defendants  
15 must file and serve their Reply by **July 11, 2011**. At the time appointed for hearing, the Court will, in  
16 its discretion, consider Defendants' Motion for Summary Judgment pursuant to FED. R. CIV. P. 56 as  
17 submitted on the papers. See S.D. CAL. CIV. L. R. 7.1(d)(1). Thus, unless otherwise ordered, no  
18 appearances or oral argument will be required.

19 IT IS SO ORDERED.

20 DATED: July 1, 2011

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23 Peter C. Lewis  
24 U.S. Magistrate Judge  
United States District Court

25 cc: The Honorable Battaglia  
26 All Counsel and parties  
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